



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Houston Independent School District

MFDR Tracking Number

M4-16-1750-01

Carrier's Austin Representative

Box Number 44

MFDR Date Received

February 22, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "I am seeking reconsideration on this bill that has been denied stating preauthorization is required. These medications do not require preauthorization and are to be retrospectively reviewed."

Amount in Dispute: \$489.96

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Respondent's network's treatment guidelines require that certain treatment requests must be preauthorized. The treatments requiring preauthorization include 'all compound medications.' A copy of the relevant HISD 504 network requirements is attached..."

Respondent submitted the pharmaceutical service for retrospective review, and the reviewer spoke with the prescribing Provider Dr. David Lin as part of the review process ... The reviewer issued an adverse determination, finding that the compound medication was not medically necessary."

Response Submitted by: White/Espey, PLLC

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 15, 2015	Prescription Medicine	\$489.96	\$489.96

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.500 defines terms used for pharmaceutical benefits.
3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.

4. 28 Texas Administrative Code §134.530 defines the preauthorization requirements for pharmaceutical services not subject to a certified network.
5. 28 Texas Administrative Code §134.600 sets out the procedures for preauthorization.
6. Texas Labor Code §408.0281 provides for reimbursement for pharmaceutical services.
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 199 – Revenue code and procedure code do not match.
 - 193 – Original payment decision is being maintained. This claim was processed properly the first time.
 - 197 – Payment denied/reduced for absence of precertification/authorization.
 - 199 – Number of services exceed utilization agreement.
 - 1241 – No additional reimbursement allowed after review of appeal/reconsideration/request for second review.

Issues

1. Is the insurance carrier's denial of payment for the revenue and procedure codes supported?
2. Do the disputed services require preauthorization?
3. Is the insurance carrier's denial of payment for exceeding a utilization agreement supported?
4. What is the total reimbursement for the disputed services?
5. Is the requestor entitled to reimbursement for the disputed services?

Findings

1. The insurance carrier denied disputed services with claim adjustment reason code 199 – “REVENUE CODE AND PROCEDURE CODE DO NOT MATCH.” Review of the submitted information finds the insurance carrier's denial for this reason is not supported.
2. The insurance carrier denied disputed services with claim adjustment reason code 197 – “PAYMENT DENIED/REDUCED FOR ABSENCE OF PRECERTIFICATION/AUTHORIZATION.” The insurance carrier argued that the requestor's “504 network” requires preauthorization for “all compound medications.” Texas Labor Code §408.0281(b) states, in relevant part:

Notwithstanding any provision of Chapter 1305, Insurance Code, or Section 504.053 of this code, prescription medication or services, as defined by Section 401.011(19)(E):

- (1) may be reimbursed in accordance with the fee guidelines adopted by the commissioner or at a contract rate in accordance with this section; and
- (2) **may not be delivered through** [emphasis added]:
 - (A) a workers' compensation health care network under Chapter 1305, Insurance Code; or
 - (B) **a contract described by Section 504.053(b)(2)** [emphasis added].

Because prescription medications may not be delivered through a contract described by Section 504.053(b)(2), preauthorization for the disputed services is subject to the rules found in 28 Texas Administrative Code Chapter 134, Subchapter F. 28 Texas Administrative Code §134.500(3) defines inclusion in the closed formulary as “All available Food and Drug Administration (FDA) approved prescription and nonprescription drugs prescribed and dispensed for outpatient use” excluding those that require preauthorization.

28 Texas Administrative Code §134.530(b)(1) states:

Preauthorization is **only** [emphasis added] required for:

- (A) drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;
- (B) any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates; and
- (C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

Review of the submitted information finds that the disputed service includes a compound medication consisting of Baclofen, Amantadine HCl, Gabapentin USP, Amitriptyline HCl, and Bupivacaine HCl. The Division finds that Baclofen, Amantadine HCl, Gabapentin USP, and Amitriptyline HCl are included in the closed formulary and have a status of "Y" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary* effective on the date of service.

The Division finds that because Bupivacaine HCl is an FDA approved drug, it is included in the closed formulary. 28 Texas Administrative Code §134.530(d)(2) states, "Prescription and nonprescription drugs included in the division's closed formulary that exceed or are not addressed by the division's adopted treatment guidelines may be prescribed and dispensed without preauthorization." Per 28 Texas Administrative Codes §§134.500(3) and 134.530(d)(2), although Bupivacaine HCl is not specifically addressed by the ODG, it may be prescribed and dispensed without preauthorization.

Therefore, because the disputed compound consists only of components included in the closed formulary that do not require preauthorization, the insurance carrier's denial for this reason is not supported.

3. The insurance carrier denied disputed services with claim adjustment reason code 199 – "NUMBER OF SERVICES EXCEED UTILIZATION AGREEMENT." 28 Texas Administrative Code §134.600(r) states:

The requestor and insurance carrier may voluntarily discuss health care that does not require preauthorization or concurrent utilization review under subsections (p) and (q) of this section respectively.

- (1) Denial of a request for voluntary certification is not subject to dispute resolution for prospective review of medical necessity.
- (2) The insurance carrier may certify health care requested. The carrier and requestor shall document the agreement. Health care provided as a result of the agreement is not subject to retrospective utilization review of medical necessity.
- (3) If there is no agreement between the insurance carrier and requestor, health care provided is subject to retrospective utilization review of medical necessity.

Review of the submitted documentation does not find that voluntary utilization review was requested or obtained. The insurance carrier's denial of payment for exceeding a utilization agreement is not supported.

4. The total reimbursement for the disputed services is established by the AWP formula pursuant to 28 Texas Administrative Code §134.503(c), which states, in relevant part:

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount...
- (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider...

The requestor is seeking reimbursement for a compound of the generic drugs Baclofen Powder, NDC 38779038809; Amantadine HCl (Bulk) Powder, NDC 38779041105; Gabapentin Powder, NDC 38779246109; Amitriptyline HCl (Bulk) Powder, NDC 38779018904; and Bupivacaine HCl Powder, NDC 38779052405. The reimbursement is calculated as follows:

Date of Service	Prescription Drug	Calculation per §134.503 (c)(1)	§134.503 (c)(2)	Lesser of §134.503 (c)(1) & (2)	Carrier Paid	Balance Due
3/15/15	Baclofen	$(35.630 \times 5.4 \times 1.25) + \$4.00 = \$244.50$	\$184.68	\$184.68	\$0.00	\$184.68
3/15/15	Amantadine HCl	$(24.225 \times 3.0 \times 1.25) + \$4.00 = \$94.84$	\$38.46	\$38.46	\$0.00	\$38.46
3/15/15	Gabapentin USP	$(59.850 \times 3.6 \times 1.25) + \$4.00 = \$273.33$	\$188.10	\$188.10	\$0.00	\$188.10
3/15/15	Amitriptyline HCl	$(18.240 \times 1.8 \times 1.25) + \$4.00 = \$45.04$	\$30.70	\$30.70	\$0.00	\$30.70
3/15/15	Bupivacaine HCl	$(45.600 \times 1.2 \times 1.25) + \$4.00 = \$72.40$	\$48.02	\$48.02	\$0.00	\$48.02

5. The total reimbursement for the disputed services is \$489.96. The insurance carrier paid \$0.00. A reimbursement of \$489.96 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$489.96.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$489.96 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Laurie Garnes Medical Fee Dispute Resolution Officer	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> April 29, 2016 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.